

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

BERTRAM LOEB	:	
	:	
v.	:	No. 02-CV-3833
	:	
BANK OF AMERICA,	:	
HERBERT S. GARTEN, ESQUIRE,	:	
SHELDON G. DAGURT, ESQUIRE, and	:	JURY TRIAL DEMANDED
FEDDER & GARTEN, P.A.	:	

AFFIDAVIT OF BETRAM LOEB

Betram Loeb, being duly sworn according to law, deposes and says the following:

1. I am an adult individual who resides at 333 Lewis Road, Springfield, Pennsylvania 19064.
2. I have personal knowledge of all facts stated in this Affidavit.
3. I have lived in Springfield, Pennsylvania for over 47 years. I am 73 years old. I attended, but did not complete high school.
4. Defendant Herbert S. Garten (who I will refer to as "Garten") personally solicited me at my home by telephone in 1996 suggesting that his law firm, Fedder & Garten, P.A., provide me with estate planning and legal services.
5. Defendants Garten and Fedder & Garten, P.A. (who I will refer to collectively as the "Lawyers") provided these services around November, 1996.
6. The Lawyers never sent me any type of written fee agreement, never explained the charges that would apply to the services they were providing, advised that there might be any conflicts of interest in their representation of me, or advised me that I should seek another attorney to represent my interests.
7. When the Lawyers presented the "Bertram Loeb Irrevocable Trust" to me in November,

1996, they did not review or explain the terms to me. Instead, they insisted that they “knew best.” Given my educational background, and the fact that I knew the Lawyers had been heavily involved in creating and participating in trusts which were created for other family members (of which I was a beneficiary), I relied upon them and never sought out the advice of separate counsel to explain the document to me.

8. The Lawyers charged me approximately \$10,000 for these services and forwarded their summary invoices to me at my home for payment.
9. At the time the Lawyers provided this estate planning, Garten was already serving as a co-trustee of the Kolbe Trust and as an officer and director of the Beta Corporation. Without consulting me or explaining any of the details to me, he also made himself the co-trustee of the Bertram Loeb Trust.
10. Defendant Sheldon Dagurt, Esquire (who I will refer to as “Dagurt”) was also serving as an officer and director of Beta Corporation. I believe Dagurt was initially appointed by Garten.
11. In addition to the Lawyer’s invoices, I also received numerous letters from Garten and the other defendants in their many roles as co-Trustee of the Kolbe Trust, officer and director of Beta Corporation, lawyer to Beta Corporation, co-Trustee of the Bertram Loeb Trust and as my attorney. I also received correspondence from Dagurt concerning various tax issues.
12. I have made and received telephone calls to and from Garten and the other defendants on a regular basis at my home since on or about May 7, 1984.
13. Garten and I met in Pennsylvania on multiple occasions to discuss matters relating to the

trusts and Beta Corporation. I discussed Beta Corporation with Garten at a dinner he and I attended on November 23, 1992 in Philadelphia and at the home of my brother Malcolm on January 21, 1989. I also recall when Garten visited my late aunts in Riddle Memorial Hospital on five separate instances. On each instance, Garten discussed Beta Corporation business. Finally, at my brother Malcolm's funeral, Garten and I discussed Beta Corporation business at Malcolm's house in Philadelphia.

14. Garten remained my attorney since he initially solicited me (at least until this lawsuit), and he continues to serve as a co-trustee in the trusts involved in this case and as an officer and director of Beta Corporation.

I have read this Affidavit and it is true and correct to the best of my knowledge, information and belief. These statements are made subject to the penalties of 18 Pa.C.S.A. §4904 relating to unsworn falsification to authorities.

Betram Loeb

Subscribed and sworn before
me this 2nd day of October 2002.

Notary Public